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A second review of the implementation of Headquarters agreements concluded by United Nations system organizations: provision of headquarters premises and other facilities by host countries

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Joint Inspection Unit entitled "A second review of the implementation of headquarters agreements concluded by United Nations system organizations: provision of Headquarters premises and other facilities by host countries" (JIU/REP/2006/4).

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A SECOND REVIEW OF THE IMPLEMENTATION OF HEADQUARTERS AGREEMENTS CONCLUDED BY UNITED NATIONS SYSTEM ORGANIZATIONS: PROVISION OF HEADQUARTERS PREMISES AND OTHER FACILITIES BY HOST COUNTRIES

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Joint Inspection Unit

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In accordance with article 11.2 of the JIU statute, this report has been "finalized after consultation among the Inspectors so as to test recommendations being made against the collective wisdom of the Unit".

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ABBREVIATIONS

CCCS	Consultative Committee on Common Services (Vienna)
CEB	United Nations System Chief Executives Board for Coordination
CTBTO	Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization
DSS	Department of Safety and Security (United Nations)
ECA	Economic Commission for Africa
ECLAC	Economic Commission for Latin America and the Caribbean
ESCAP	Economic and Social Commission for Asia and the Pacific
ESCWA	Economic and Social Commission for Western Asia
FAO	Food and Agriculture Organization of the United Nations
H-MOSS	Headquarters Minimum Operating Security Standards
IAEA	International Atomic Energy Agency
IASMN	Inter-Agency Security Management Network
ICAO	International Civil Aviation Organization
ILO	International Labour Organization
IMO	International Maritime Organization
ITU	International Telecommunication Union
JIU	Joint Inspection Unit
MRRF	Major Repairs and Replacements Fund
OHCHR	Office of the United Nations High Commissioner for Human Rights
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UN-Habitat	United Nations Human Settlements Programme
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIDO	United Nations Industrial Development Organization
UNOG	United Nations Office at Geneva
UNON	United Nations Office at Nairobi
UNOV	United Nations Office at Vienna
UNRWA	United Nations Relief and Works Agency for Palestine Refugees in the Near East
UNV (UNDP)	United Nations Volunteers
UPU	Universal Postal Union
VAT	value added tax
VBO	Vienna-based organization
WFP	World Food Programme
WHO	World Health Organization
WIPO	World Intellectual Property Organization
WMO	World Meteorological Organization

Objective: To identify best practices in the provision of headquarters premises and other facilities granted under the headquarters agreements concluded by the United Nations organizations, with the view to contributing to effective and consistent practices and policies throughout the United Nations system.

INTRODUCTION

1. In 2004, the Joint Inspection Unit (JIU) issued a report entitled "Review of the headquarters agreements concluded by the organizations of the United Nations system: human resources issues affecting staff".[1] The objective of that report was to identify areas where adjustments in the headquarters agreements might be advisable, with a particular emphasis on issues related to the reform of human resources management. In follow-up to that initial report, which was well received[2] by the participating organizations, the Unit undertook a second review of headquarters agreements concluded by United Nations system organizations, concentrating on the provision of headquarters premises and facilities other than those relating to human resources management.

2. The present report aims to identify best practices in the provision of premises and implementation of the agreements. It further seeks to contribute to the achievement of consistent standards among organizations and staff in terms of the facilities granted by host counties to assist them in their work. The specific issues addressed in this report include the issuance of visas, matters of taxation, freedom of movement within the host countries and security issues.

3. This second review covers only those agreements that relate directly to main headquarters duty stations of the organizations of the United Nations system, i.e., the United Nations, its funds and programmes, specialized agencies of the United Nations system and the International Atomic Energy Agency (IAEA). Some treaty bodies institutionally linked with the United Nations are also included. The review does not cover headquarters agreements concluded by United Nations organizations in relation to their regional, country, or field offices, such as the Standard Basic Assistance Agreements of the United Nations Development Programme (UNDP), the Model Cooperation Agreements of the United Nations High Commissioner for Refugees (UNHCR), and the Basic Cooperation Agreements of the United Nations Children's Fund (UNICEF). Further, it does not cover the United Nations status-of-mission agreements, which concern peacekeeping missions.

4. The Unit is aware of concerns that arise from these substantially different host country agreements with the specialized agencies, funds and programmes, particularly the disparities between staff members in the same duty station, in terms of the facilities, privileges and immunities that they enjoy. The principle of "most favoured treatment",

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[1] "Review of the headquarters agreements concluded by the organizations of the United Nations system: human resources issues affecting staff", report of the Joint Inspection Unit (JIU): note by the Secretary-General (A/59/526 of 24 October 2004) (JIU/REP/2004/2).

[2] "Review of the headquarters agreements concluded by the organizations of the United Nations system: human resources issues affecting staff": note by the Secretary-General (A/59/526/Add.1 of 10 February 2005).

recommended in the initial report of the Unit on headquarters agreements (A/59/526 and Add.1), should be taken into account when establishing or redefining standards and when addressing disparities and other concerns about uneven treatment between staff members of United Nations system organizations.

5. In preparing the present report, the Inspector conducted interviews with representatives of a number of United Nations system organizations, including those based in Geneva, Nairobi, New York and Vienna. In order to arrive at a more balanced view of the subject matter, the Inspector also met with representatives of a number of host countries and the Chairman of the Committee on Relations with the Host Country in New York. Additional information for this report was obtained from responses to a JIU questionnaire distributed throughout the system and from official documentation.

6. The Inspector wishes to express appreciation to the staff of those United Nations organizations, funds and programmes, and the specialized and related agencies, who were interviewed, and who responded to the questionnaire for this report.

I. BACKGROUND

7. Headquarters agreements are bilateral agreements between United Nations organizations and the respective host countries in which those organizations are located. These agreements regulate the status of the organizations and their staff within the host countries and provide certain facilities, privileges and immunities to facilitate the work of the organizations.

8. The Charter of the United Nations,[3] the Convention on the Privileges and Immunities of the United Nations, the Convention on the Privileges and Immunities of the Specialized Agencies and the Agreement on the Privileges and Immunities of the International Atomic Energy Agency[4] provide the legal base upon which most headquarters agreements[5] are concluded and give effect to the relationship between United Nations organizations and their host countries. These multilateral agreements further emphasize the importance of ensuring that international organizations and their staff are granted adequate facilities, privileges and immunities to effectively and independently carry out their duties.

9. The Inspector found that with few exceptions, the headquarters agreements of the organizations of the United Nations are, more or less, identical in terms of structure and content and that there are no concerns regarding the texts of these agreements. The United Nations organizations consulted in connection with this report have all expressed general satisfaction with their respective agreements. Indeed, many consider that their host countries are quite generous in the provision of facilities, privileges and immunities.

10. While there are no concerns about the agreements as such, many organizations have expressed concern about the efficiency and adequacy of implementation and

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[3] Paragraph 1 of Article 105 of the Charter of the United Nations stipulates that "The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes."

[4] United Nations, *Treaty Series*, vol.1, No. 4, p.15; vol. 33, No. 521, p.261; and vol. 374, No. 5334, p. 147.

[5] One such exception is the International Labour Organization, which pre-dates the United Nations.

interpretation of certain provisions of the agreements in some host countries. In particular, concerns have been expressed about the issuance of visas, provision for the residency status of officials and staff members, exemption from or reimbursement of taxes and customs duties, registration of vehicles, issuance of driving licences and other services, and inadequate safety and security of premises and staff.

11. Many of the interviewees also expressed concern about the tardiness of the authorities in some host countries in processing applications for the reimbursement of taxes, vehicle and driving licence registrations, customs clearance payments, etc. which often hampers the normal functioning of the organizations and incapacitates staff members in the discharge of their duties. They stress that such tardiness in the processing of applications is sometimes tantamount to non-compliance with the provisions of privileges and immunities envisaged in the headquarters agreements.

12. Despite these issues, however, it is noted that neither the organizations nor the host countries themselves would wish to reopen negotiations of the agreements, in view of the lengthy process, involving parliamentary consent, and the uncertainty of the outcome. Both parties favour, instead, the use of supplementary agreements or exchanges of letters to update or enhance the existing agreements, should the need arise.

II. THE NEED TO FOSTER GOOD RELATIONS BETWEEN UNITED NATIONS SYSTEM ORGANIZATIONS AND HOST COUNTRIES

13. Headquarters agreements concluded by United Nations organizations with their host countries constitute the instruments that guarantee the normal relations between these organizations and their respective host countries. Naturally, the implementation of these agreements, in letter and in spirit, becomes imperative for the realization of good normal relations. This calls for compliance from both parties, United Nations organizations and host countries.

14. Therefore, from the very outset, the Inspector wishes to stress that mutual respect and mutual understanding are of the foremost importance in the successful implementation of the headquarters agreements concluded by United Nations organizations and their respective host countries. On the one hand, United Nations organizations and their staff must understand that all the facilities, privileges and immunities granted by host countries are not meant for the personal benefit of staff, but for the purposes of facilitating their work and discharging the professional duties entrusted to them. Executive heads of all United Nations organizations should constantly remind their officials and staff members of their duty to respect the laws, regulations, traditions and habits of the host countries.

15. On the other hand, host countries should be aware that it is to their own prestige, political advantage, and economic benefit to be hosts to United Nations system organizations. Therefore, as hosts, they must accord the United Nations organizations and their officials and staff members the necessary privileges and immunities as well as the facilities and courtesies required in the headquarters agreements and other applicable international instruments, for the smooth functioning of the organizations and for the discharging of their responsibilities.

16. In preparing this report, the Inspector found to his regret that the presence of United Nations organizations is not always properly recognized and appreciated by some people in some host cities/countries. The notion that host countries "give" and the

United Nations organizations "take" seems to be the reason behind this lack of recognition. However, in the view of the Inspector, the presence of the United Nations organizations in host countries should not be considered a "one-way street", which is characterized by one party "giving" and the other party "taking". This attitude is somewhat patronizing, and if not corrected in time, it would hinder the fostering of good relations between United Nations organizations and their host countries. The presence of United Nations organizations in host countries should, instead, be considered a "win-win" affair. While the organizations and their staff members may enjoy the facilities, privileges and immunities accorded by host countries in the interests of the organizations, at the same time and in all fairness, the host countries also gain, both in political and economic terms. Apart from the political prestige that the host countries gain from the presence of the United Nations organizations – which is simply unquantifiable – one must not forget the economic benefits that the host countries gain from their presence.

17. In preparing this report, the Inspector came across the following figures that show, approximately, the economic benefits that the host countries of the four main United Nations headquarters gain annually from the presence of the United Nations organizations.

United Nations Headquarters	**Annual contribution to host economy**
Vienna, Austria	Approx. US$ 582 million (2002)
Nairobi, Kenya	Approx. US$ 350 million (2000)
Geneva, Switzerland	Approx. US$ 3 billion (2003)
New York, United States of America	Several billion United States dollars

Sources: United Nations Information Service, Vienna, Economic benefits derived from international organizations in Vienna; United Nations Office at Nairobi: The United Nations Headquarters in Africa; Switzerland and the United Nations: The 2005 Report of the Federal Council, available on the website of the Permanent Mission of Switzerland to the United Nations and other International Organizations in Geneva (http://www.dfae.admin.ch/geneve) and the Statistical Office of the Canton of Geneva. Regarding figures for the United States, the Inter Press Service News Agency article, "U.S. Gets as Much as it Gives to the U.N." by Thalif Deen, of 9 August 2006, states "According to former New York city Mayor Rudy Giuliani, the United Nations and its agencies … contributed about 3.2 billion dollars annually to the city's economy in the late 1990s". While official figures could not be found, the Inspector has heard estimates currently of up to US$ 6 billion annually.

Recommendation 1

Executive heads of United Nations organizations should remind their officials and staff members of their obligation to be exemplary in respecting the laws, regulations, traditions and habits of the host countries.

Recommendation 2

Legislative bodies of United Nations organizations should:

(a) Remind the host countries of their legal obligations concerning the headquarters agreements and the benefits of the presence of United Nations organizations in their respective countries, and that the full implementation of headquarters agreements is also to their benefit; and

(b) Request their respective executive heads to report back at appropriate intervals on the implementation of the headquarters agreements.

III. FACILITIES PROVIDED BY HOST COUNTRIES IN THE ACQUISITION OF HEADQUARTERS PREMISES

18. Conditions offered by various host countries in the acquisition/provision/refurbishment of headquarters premises for United Nations organizations differ widely. Some organizations were given land free but had to build their premises at their own expense, while many others lease their premises from either the host countries or commercial entities at market prices. Some are provided with interest-free loans for the construction of their buildings, while quite a few host countries offer free use of headquarters premises, or lease premises at a nominal rent, and even offer to share the cost for major repairs and refurbishments of the premises.

19. The annexes to this report show the various conditions offered by host countries in the acquisition, provision, maintenance and refurbishment of headquarters premises for the various United Nations organizations.

20. It can be concluded from the tables in annexes I and II that, in general, there are three different practices in the provision of facilities by host countries, with regard to United Nations organizations headquarters premises.

21. The first is the category in which organizations get little or no substantial financial or in-kind assistance from the host countries. In this case, organizations have to build or rent their headquarters premises at their own expense, and pay for major repairs and refurbishments.

22. In the second category, organizations are provided with headquarters premises free of charge by host countries, or at a nominal rent, and are required to pay only for the day-to-day maintenance and operational charges. Furthermore, the host countries in this category usually pay the cost of major repairs and refurbishments of the headquarters premises. In certain cases, host countries are generous enough to provide, at their own cost, equipment, appliances and furniture, or provide services such as gardening.

23. The third category falls somewhere in between the two. The host countries in this category may provide the organizations with land, or the free use of land, and/or with loans (interest free or at low interest) for the construction of headquarters premises; or they may provide premises at a subsidized rent. Some host countries share the cost of major repairs and refurbishments of the premises. In other cases, the organizations have to bear the entire cost of major repairs and refurbishments.

24. As mentioned above, considering the political prestige as well as economic benefits that host countries may gain from the presence of United Nations organizations, the Inspector is strongly of the view that executive heads should negotiate with and convince the host countries, especially the economically developed countries, to provide more generous facilities in the acquisition, provision and refurbishment of headquarters premises of United Nations organizations.

25. In this regard, the Inspector was informed that the Swiss authorities have expressed their willingness to consider favourable commercial terms for the consolidation of office space within the Palais des Nations perimeter to host UNHCR, the Office of the United Nations High Commissioner for Human Rights (OHCHR), and other secretariat bodies, if the need arises.

26. In this connection the Inspector wishes just to say a few words concerning the capital master plan – the plan for the major refurbishment of the United Nations Headquarters

complex in New York. The Inspector notes that Member States of the United Nations had been gratified to hear, in 2002, that the City of New York was considering the construction of a new building, known as UNDC-5, as swing space, but were later disappointed to learn that the project could no longer be pursued. This abortive plan made a negative impact on the whole capital master plan.

27. The Inspector also notes that in 2005 the host country formalized its offer of a US$ 1.2 billion loan at an interest rate of 5.54 per cent for up to 30 years.[6] However, the General Assembly has not taken any decision on this offer. The Inspector further notes that the representative of the host country verbally advised the Fifth Committee of the General Assembly in September 2005 that "the capital master plan-related loan offer would be renewed and adjusted".[7] While appreciating the offer, the Inspector hopes that the host country would consider a more generous offer in this regard. However, it is noted that other funding mechanisms for the capital master plan are also being considered.

Recommendation 3

Executive heads of the United Nations system organizations should negotiate with and encourage the host countries to provide more generous facilities to the organizations in the acquisition or refurbishment of their headquarters premises by, for example, providing premises free of charge, or providing interest-free loans or sharing costs.

IV. FUNDING FOR MAJOR REPAIRS AND REFURBISHMENTS

28. Some United Nations organizations, such as the International Labour Organization (ILO), World Health Organization (WHO), World Meteorological Organization (WMO) and International Maritime Organization (IMO), have set aside special funds in their respective regular budgets for major repairs and refurbishments of their headquarters premises, to ensure that necessary financial resources are available when the need arises. Indeed, the original agreement concluded between the Vienna-based organizations (VBOs) and Austria also provides for the establishment of a separate common fund for refurbishment, known as the Major Repairs and Replacements Fund (MRRF), to which all signatories are to contribute annually. Additionally, VBOs created a special account for alterations or refurbishment not covered by MRRF, to which each VBO contributes, and the unspent balance of which is not subject to return to Member States at the end of each biennium. This special account allows for multi-year alteration or refurbishment projects to operate smoothly.

29. The Inspector considers this a good practice, which ensures that the necessary financial resources are available when the time comes for major repairs and refurbishments. It is therefore recommended that organizations bearing the full cost or part of the cost of their major repairs and refurbishments should establish such a fund, if they have not yet done so.

30. In this context, the Inspector also noted that the United Nations regular budget did contain a section for the same purpose for the United Nations Headquarters in New York. However, funds allocated in recent bienniums have, in the light of the projected

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[6] Capital master plan: report of the Secretary-General (A/59/441/Add.1 of 20 May 2005).

[7] Third annual progress report of the Secretary-General on the implementation of the capital master plan (A/60/350 of 11 November 2005 and A/60/550/Corr.1 and 2 and Add.1).

implementation of the capital master plan, been kept to a minimum. The result has been the further deterioration and malfunction of the facilities.

Recommendation 4

Legislative bodies of those United Nations system organizations that bear the full cost or part of the cost of major repairs and refurbishments of their headquarters premises should establish a special fund to ensure adequate financial resources for such repairs and refurbishments in their regular budgets, if they have not yet done so.

V. FORMAL FORUMS TO ENSURE DIALOGUE AND FACILITATE RELATIONS BETWEEN UNITED NATIONS SYSTEM ORGANIZATIONS AND HOST COUNTRIES

31. The Committee on Relations with the Host Country[8] at United Nations Headquarters plays a very positive "buffer" role in the relations between the host country and the diplomatic community in New York and the United Nations organizations as a whole. The Committee, formally established in 1971 pursuant to General Assembly resolution 2819 (XXVI) of 15 December 1971, deals with a range of issues concerning relations with the host country, such as the security of missions and their personnel, issuance of visas, immigration and customs procedures, taxation matters, diplomatic indebtedness, housing, transportation and parking issues, insurance, educational and health-care matters, etc.

32. The Inspector was informed that whenever an issue arises and is brought to the attention of the Committee, in connection with the interpretation and implementation of the headquarters agreement, the Chairman of the Committee takes it upon himself to conduct a fact-finding exercise in order to determine what really happened, and then duly conveys the concerns of the mission(s) concerned to the representatives of the host country. Satisfactory solutions may sometimes be reached through such mediation, and issues can thus be "nipped in the bud", depending on the nature and magnitude of the issue. Otherwise, the Committee calls a meeting at which representatives of the host country as well as the missions concerned are invited to air their views, and the Committee tries to find a solution in an open, frank, constructive manner and in the spirit of compromise. In both cases, the "buffer" role of the Committee is always well recognized and highly appreciated, by both the host country and the diplomatic community in New York.

33. There are forums of a somewhat similar nature in other major United Nations duty stations such as Geneva, Nairobi and Vienna. The Diplomatic Committee in Geneva,[9] established in 1989, acts as a consultative body and uses its good offices to promote best relations with the host country in solving issues relating to the status of Permanent Missions and representatives of Members States. It meets periodically and whenever convened by the Chairman or at the request of a Member State or the Director-General of the United Nations Office at Geneva (UNOG). The meetings are informal and conference services are provided by UNOG as a matter of courtesy. However, its

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[8] The Committee is composed of 19 Member States, and since 1971, has been chaired by successive Permanent Representatives of Cyprus.

[9] According to the Statute of the Diplomatic Committee, approved during the meeting of 13 September 1989, "the Committee shall be composed of two representatives, at ambassadorial level, nominated by each regional group, plus the representative of China".

function and the matters with which it is concerned are similar to those of the Committee on Relations with the Host Country in New York. UNOG has indicated that it is satisfied with the current mechanism in its relationship with the host country, which was inherited directly from the League of Nations.

34. The Nairobi Host Country Liaison Committee is a formal committee, which is chaired by the Permanent Secretary of the Ministry of Foreign Affairs of the Government of Kenya. The Nairobi City Council is also represented on the Committee. The Committee meets to discuss issues of mutual concern to the host country and the United Nations organizations in Nairobi. However, the Inspector was informed that the United Nations organizations in Nairobi are the primary focus of the Committee, while Permanent Missions in Nairobi are not invited, even as observers. It was agreed only recently that the dean of the diplomatic community could participate in the Committee as an observer.

35. Likewise, the Vienna-based United Nations organizations established the Consultative Committee on Common Services (CCCS), which is not the same as the aforementioned committees on relations with host countries, but to some extent serves a similar purpose. Matters of common administrative concern to VBOs are first discussed in CCCS so that a common approach is arrived at before such administrative concerns are brought to the attention of the host country. Common issues are therefore addressed through a common approach with the Austrian authorities, but not in the context of a committee comprising the diplomatic communities, the United Nations organizations and the host country.

36. In addition, the Inspector was informed that in March 2006, the governing bodies of the United Nations World Tourism Organization in Madrid decided to establish a Joint Headquarters Committee to address and resolve issues arising out of the implementation of the headquarters agreement.

37. The Inspector considers that the Committee on Relations with the Host Country in New York provides an excellent forum in which to address concerns regarding the proper interpretation and efficient implementation of headquarters agreements, facilitating best relations between the United Nations organizations and their officials and staff members as well as diplomatic missions with the host countries. As a mandated entity, the Committee in New York can issue resolutions that give its decisions legal authority. Similar committees in other headquarters, if properly mandated, would also have the authority to issue resolutions and would be ensured the provision of conference services. The Inspector believes that mandated host country relations committees would have added weight and credibility in tackling issues of common concern and facilitating good relations with the host countries.

Recommendation 5

Legislative bodies of United Nations organizations headquartered in the same host country should:

(a) Consider establishing a joint formal forum, similar to the Committee on Relations with the Host Country in New York, to enhance relations with the host country; and

(b) Ensure that adequate resources are allocated from their regular budget to support the establishment and proper functioning of this formal forum.

Recommendation 6

The General Assembly should request the Secretary-General to direct the Directors-General of the United Nations Offices at Nairobi and Vienna to coordinate the establishment of such joint forums, in collaboration with the host countries and other United Nations organizations headquartered in their duty stations.

VI. VISA ISSUES

38. The Unit has already dealt with the issuance of visas by host countries in its first report on the review of headquarters agreements concluded by United Nations organizations. However, given that this issue remains one of the major concerns of the United Nations organizations and their staff, the Inspector is obliged to reiterate a few points.

39. Indeed, no one would deny the obligation of host countries to grant visas for officials and staff of United Nations organizations, free of charge and as speedily as possible. However, in reality, organizations indicated cases of excessive delays and unsubstantiated denials regarding the issuance of visas for some staff members, experts and officials of certain nationalities travelling to the United Nations Headquarters in New York, the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) and, in some cases, the United Nations Office at Nairobi. Regarding requests for visas to New York, representatives of the Permanent Mission of the United States to the United Nations indicated that any delays or denials in the issuance of visas are primarily due to security checks and are not specifically targeted at any particular person or nationality.

40. The Inspector fully understands, and has no objection whatsoever to, the need for security screening by host countries in processing visa applications from officials and staff members of United Nations organizations. It is, indeed, in the interests of host countries, as well as United Nations system organizations and their staff, to make security checks, particularly in the light of increasing global security concerns. However, this should not impede the timely processing of visa applications, especially of those staff and officials of United Nations organizations who have previously been granted visas by the same host countries. The Inspector wishes to point out that such cases of repeated delays or denials of visas are somewhat hard to understand and accept as simply due to reasons of national security.

41. In this connection, the Inspector cannot but reiterate the substance of the recommendation of the Unit in its first report.

Recommendation 7

Executive heads of United Nations system organizations should:

(a) Remind the host countries of their obligations under the headquarters agreements to issue visas free of charge and in a timely fashion to staff and officials of United Nations organizations;

(b) Encourage host countries to establish a reasonable time frame for the processing of visas, in collaboration with the organizations, so as to avoid delays and denials in the issuance of visas, especially to those officials and staff members who have been previously granted visas; and

(c) Report back to the legislative bodies on progress made in this regard.

VII. TAX AND CUSTOMS PRIVILEGES

42. All staff members of United Nations system organizations, in accordance with the headquarters agreements, enjoy exemption from taxes on their salaries, emoluments and allowances paid to them by the organizations. Moreover, senior staff members at P-5 level (in Geneva for instance) and above also enjoy the privileges and immunities accorded to diplomatic representatives by host countries in all duty stations with the exception of New York, where such privileges and immunities are accorded only to staff at the level of Assistant Secretary-General and above.

43. In addition to the above-mentioned, United Nations staff members with diplomatic privileges are also exempted from the payment of indirect taxes, such as value added tax (VAT), on articles purchased and services supplied for their personal use. Some host countries are somewhat more generous in granting privileges and immunities to staff members of United Nations organizations. The Government of Kenya, for example, extends the following privileges to international staff of the United Nations Office at Nairobi (UNON), the United Nations Environment Programme (UNEP) and the United Nations Human Settlements Programme (UN-Habitat), who have contracts of one year or longer, irrespective of grade: VAT-exempt and duty-free fuel; and the duty-free import of vehicles, personal and household effects. In addition, locally recruited staff may also have access to limited duty-free purchases at the United Nations commissary in Nairobi.

44. Senior staff members of United Nations organizations are usually not exempted from local charges, levies, fees, tolls and service charges, etc. However, disputes sometimes arise between host countries and United Nations organizations and their staff over this matter. Senior staff consider some payments to be taxes that they should not be asked to pay, while host countries argue that they are not taxes, but charges or levies for services rendered, and that senior staff should not be exempted from paying them.

45. For example, when meeting with colleagues from IMO in London, the Inspector was informed that the London municipal authorities have introduced the "congestion charge", and have applied this to the official vehicles of the diplomatic community within a designated area of London. This has raised some concerns among the diplomatic missions in London. Officials of the Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland later confirmed that the Government had considered whether the United Kingdom was under an obligation to exempt diplomatic missions and international organizations from paying the charge. The Government concluded that they should not be exempt since the congestion charge comes under the same category as parking fees or toll charges, which diplomatic missions and international organizations are required to pay. The Government sees no legal grounds for exempting missions, international organizations and their staff from the scheme. The Inspector was also informed about the "climate change levy", a tax on the use of energy in industry, commerce and the public sector, which applies to United Nations organizations and the diplomatic community in London as well. Discussions are under way in the Government to implement a refund of the levy.

46. There are also wide discrepancies among host countries in handling the purchase or importation of duty-free vehicles, e.g., while diplomatic staff in Austria may buy duty-free cars and sell such cars after two years without paying taxes, in Switzerland it may

take up to six years. For the organizations pursuing the staff mobility policy, the latter practice may present a growing problem.

47. Another example is the issue of the radio and television reception charge in Geneva. Since 1997, officials and staff members of United Nations organizations in Geneva who enjoy diplomatic status have been required to pay the radio and television reception charge, which causes much concern among officials of many organizations in Geneva. The Inspector came to understand that diplomatic missions in Geneva and their staff members, whether diplomatic or not, are all granted an exemption of the radio and television charge. When asked about the rationale behind the differentiation between diplomats of the missions and the officials of the organizations who are entitled to the same diplomatic status, the Swiss hosts explained that the exemption is granted only on reciprocity, so that Swiss diplomatic personnel posted abroad are likewise not required to pay similar charges in their various duty stations.

48. The Inspector finds it difficult to understand the rationale why officials of the United Nations organizations in Geneva who are entitled to diplomatic status should be treated differently, and even harder to understand why they – who are supposed to enjoy full diplomatic status – should pay this radio and television charge, while non-diplomatic staff members in the missions are granted an exemption. In this connection, the Inspector would like to mention that years ago, there was a similar radio and television reception charge in Vienna, but later the Austrian authorities decided to exempt United Nations organization staff from paying it. The Inspector considers this a good development, which the Swiss authorities may wish to consider.

49. The Inspector notes that there is also a need for the simplification of the procedures for exemptions from VAT and other taxes in Switzerland.

50. It appears to the Inspector that to some extent, all such issues concerning taxation may find their root cause in the confusion originating from a lack of clear definitions or varying interpretations of such terms as "direct and indirect taxes", "charges", "levies", "fees" and "tolls". Therefore, a study should be undertaken, in consultation with the host countries, to clarify these terms and ensure that the definitions are used consistently in the context of headquarters agreements. The United Nations System Chief Executives Board for Coordination (CEB) should consider reviewing this issue.

Recommendation 8

The United Nations System Chief Executives Board for Coordination (CEB) should regularly review the practical implementation of privileges and immunities granted to international organizations, especially as far as the interpretation of such terms as "direct and indirect taxes", "charges", "levies" and "fees" is concerned, so as to ensure their uniform application by host countries in the context of headquarters agreements.

VIII. THE PRINCIPLE OF "MOST FAVOURED TREATMENT"

51. The importance of adhering to the principle of "most favoured treatment" in granting diplomatic privileges and immunities to the United Nations organizations has also been dealt with in the first report of the Unit. The Inspector notes with gratification that, on the whole, this principle prevails in most of the United Nations major duty stations, as far as the main headquarters offices of the organizations are concerned.

52. However, concerns still remain about the different treatment of staff members who are serving in the host country, not at their headquarters, but at regional, local or country offices of the United Nations organizations. A salient example can be found in Nairobi. The Inspector was informed, when meeting with colleagues from UNON, UNEP and UN-Habitat, that staff members of those regional, local or country offices of other specialized agencies of the United Nations system operating in Nairobi are not granted the same privileges and immunities that they themselves enjoy. This has naturally led to a situation in which colleagues who are of the same United Nations family, at the same rank, working side by side in practically the same field and same environment, and, indeed, in the same host country, are treated differently. The demoralizing effect as a result of this dissimilar treatment is certainly something not hard to imagine.

53. It is the view of the Inspector that legislative bodies of the United Nations organizations should reiterate with host countries the importance of adhering to the principle of "most favoured treatment" in granting privileges and immunities to officials and staff members of the specialized agencies of the United Nations system in the same duty station, whether they are operating from their headquarters or regional, local and country offices.

54. In this connection, the Inspector also wishes to point out that Nairobi occupies a very unique and important position throughout the whole United Nations family. Practically all United Nations funds and programmes, and all the specialized agencies, have their presence in Nairobi, which boasts the only United Nations Office in the developing world. This should be a great asset and a source of pride to the city of Nairobi, indeed, to the host country. Considering that staff members of all the specialized agencies of the United Nations system operating in Nairobi are mostly engaged in the fields of social and economic development and the human rights sector, one may conclude that resolving the issue mentioned in the above paragraphs will benefit the host country, as well as staff members of those United Nations organizations.

55. The Inspector was very gratified to be further informed, at the time of finalizing this report, that the Government of Kenya had recently agreed to harmonize and extend the privileges of the host country agreement of UNON, UNEP and UN-Habitat to all the organizations and specialized agencies of the United Nations system represented in Kenya, and that UNON was expecting the transmission of the agreement in writing in July/August 2006. As this is still pending, the Inspector would like to keep the following recommendation in the report, and would be only too glad if it should be overtaken by events by the time this report is officially issued.

Recommendation 9

The Secretary-General should direct the Director-General of the United Nations Office at Nairobi to pursue his efforts to negotiate with the host country to establish the practice of "most favoured treatment", as applied in other duty stations, with the view to ensuring common standards in the application of facilities, privileges and immunities granted to all United Nations officials and staff members in Nairobi, whether they are operating there from headquarters, or regional, local and country offices.

IX. SECURITY ISSUES

56. In the light of increasing global security concerns among the international community, and especially since the establishment of the Department of Safety and Security in the

Recommendation 10

The legislative bodies of United Nations organizations should:

(a) Allocate appropriate financial resources to ensure adequate and realistic security facilities in all their duty stations; and

(b) Remind host countries of their obligation to provide adequate security for United Nations organizations premises and staff.

Recommendation 11

The Secretary-General should direct the Department of Safety and Security to:

(a) Review H-MOSS with a view to formulating more realistic and practicable security requirements for adoption by the Inter-Agency Security Management Network (IASMN); and

(b) Develop guidelines, in collaboration with those organizations renting commercial facilities, and those that lease office space in their headquarters premises to non-United Nations entities, for the application of H-MOSS to their specific circumstances.

X. FREEDOM OF MOVEMENT

61. The freedom of movement of officials of United Nations organizations is also one of the issues often raised at the Committee on Relations with the Host Country in New York. Responses to the questionnaire in connection with this report indicate that some United Nations system organizations located in other jurisdictions, notably UNRWA, also experience this problem.

62. The Inspector notes with appreciation that some travel restrictions previously imposed on staff of certain missions and United Nations officials of certain nationalities in New York have recently been removed.[12] However, as such limitations on the freedom of movement constitute discrimination against members of certain nationalities and potentially impede the work of the United Nations organizations, all remaining restrictions in this regard should be removed.

Recommendation 12

The Secretary-General should continue to urge the host countries to abide by their obligations as contained under the headquarters agreements and allow full access and freedom of movement of all officials and staff members of the United Nations, so as to facilitate the full functioning of the organization.

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[12] General Assembly resolution 60/24 of 23 November 2005.

Annex I

FACILITIES PROVIDED IN THE ACQUISITION AND PROVISION OF LAND AND HEADQUARTERS PREMISES FOR UNITED NATIONS SYSTEM ORGANIZATIONS

Host country	Organization	Land			Premises		
		Host country	Organization	Private	Host country	Organization	Private
Austria	CTBTO[13]				One Austrian schilling per year.		
	IAEA[14]				One Austrian schilling per year (indefinitely).		
	UNIDO[15]				One Austrian schilling per year (until 2078).		
	United Nations (UNOV)[16]				One Austrian schilling per year (until 2078).		
Canada	ICAO[17]				75 per cent of rent paid by host country; 25 per cent of rent paid by ICAO. The premises are managed by Public Works and Government Services Canada (PWGSC).		
	Secretariat Convention on Biological Diversity[18]						1996 – 2000 rent paid by host country. Currently US$ 1 million rental subsidy paid by host country. Current lease expires 31 November 2019.

[13] Agreement regarding the seat of the Commission, signed by the Government of Austria and the Preparatory Commission for the Comprehensive Nuclear Test-Ban Treaty Organization, United Nations, *Treaty Series*, vol. 1998, No. 34224, p. 25.

[14] Agreement between the International Atomic Energy Agency and the Republic of Austria regarding the Headquarters Seat of the International Atomic Energy Agency at the Vienna International Centre (INFCIRC/15/Rev.1/Add.1), which entered into force on 1 October 1981.

[15] Agreement between the Republic of Austria and the United Nations Industrial Development Organization regarding the headquarters of the United Nations Industrial Development Organization (29 November 1995).

[16] Interview conducted.

[17] Response to JIU questionnaire distributed to inform the present report, and additional written response.

[18] Response to JIU questionnaire.

Host Country	Organization	Land			Premises		
		Host country	Organization	Private	Host country	Organization	Private
Chile	United Nations (ECLAC)[19]					Owns premises.	
Ethiopia	United Nations (ECA)[20]	Provided land (plus two additional plots later).			Provided Africa Hall.	Owns premises.	
France	UNESCO[21]	Land provided at symbolic rent.			Interest-free and low-interest loans provided for construction of two premises.		
Germany	UNDP (UNV)[22]				Provided premises rent free.		
	Secretariat United Nations Framework Convention on Climate Change[23]				(See UNDP (UNV))		
	Secretariat Convention to Combat Desertification[24]				(See UNDP (UNV).)		
Italy	FAO[25]				Symbolic rent of one euro per year.		
	WFP[26]				Host country pays rent.		

[19] Capital master plan: report of the Secretary-General (A/55/117/Add.1 of 13 December 2000).
[20] Response to JIU questionnaire.
[21] Ibid.
[22] The Agreement between the United Nations and the Government of the Federal Republic of Germany concerning the Occupancy and Use of the United Nations Premises in Bonn (concluded on 13 February 1996) and response to JIU questionnaire.
[23] Ibid.
[24] Ibid.
[25] Response to JIU questionnaire.
[26] Ibid.

Host Country	Organization	Land			Premises		
		Host country	Organization	Private	Host country	Organization	Private
Jordan	United Nations (UNRWA)[27]	Jordan provided land in Amman.				Premises constructed by UNRWA.	
Kenya	UNEP[28]	140 acres provided to United Nations.				Constructed premises.	
	UN-Habitat[29]	(See UNEP.)				(See UNEP.)	
	United Nations (UNON)[30]	(See UNEP.)				(See UNEP.)	
Lebanon	United Nations (ESCWA)[31]				Premises provided rent-free.		
Spain	UNWTO[32] (World Tourism)				Premises provided for symbolic rent of one euro per year.		

[27] Response to JIU questionnaire and additional written response.
[28] Capital master plan: report of the Secretary-General (A/55/117/Add.1 of 13 December 2000) and results of interview.
[29] Ibid.
[30] Ibid.
[31] Response to JIU questionnaire.
[32] Ibid.

Host Country	Organization	Land			Premises		
		Host country	Organization	Private	Host country	Organization	Private
Switzerland	ILO[33]		Owns land.			Owns premises (Sw F 100 million interest-bearing loan from host country – later became interest free).	
	ITU[34]	Provided land.				Host country (through Property Foundation for International Organizations (FIPOI)[35]) provided interest-free loan.	
	United Nations (OHCHR)[36]				Provided at subsidized rent (Sw F 250 per square metre).		
	UNHCR[37]				Provided at preferential rate (by FIPOI).		
	United Nations (UNOG)[38]	Some land owned by Canton of Geneva.	Owns most of the land.			Owns premises.	
	UPU[39]				Interest-bearing loan provided, currently interest-free and extended until 2030.		
	WHO[40]	Indefinite use of land.			Interest-free loan provided for construction. Additional building - FIPOI loan.		
	WIPO[41]		Land for new building funded by WIPO.		Original headquarters building provided by host country. Current headquarters building – FIPOI interest-free loan.		
	WMO[42]	Indefinite use of land.			Interest-free loan from FIPOI for 75 per cent of construction cost.	Provided 25 per cent of construction cost (remaining 75 per cent from FIPOI loan).	

[33] Results of interview and op. cit. at note 18.
[34] Results of interview and op. cit. at note 18.
[35] Fondation des immeubles pour les organisations internationales (Building Foundation for International Organizations).
[36] Op. cit. at note 18 and results of interview.
[37] Results of interview and op. cit. at note 18.
[38] Ibid.
[39] Results of interview.
[40] Results of interview and op. cit. at note 18.
[41] Ibid.
[42] Ibid.

Host Country	Organization	Land			Premises		
		Host country	Organization	Private	Host country	Organization	Private
Thailand	United Nations (ESCAP)[43]	Land owned by host country and leased to the United Nations at a nominal rate of 1 baht per annum (lease agreement dated 26 January 1985).				United Nations funded construction of premises.	
United Kingdom	IMO[44]				Purpose-built and rented to IMO (currently lower than market rate).		
United States	United Nations Headquarters[45]	UNDC1[46] and UNDC2.		Gift from John D. Rockefeller Jnr. for headquarters site (valued at US$ 72.6 million in 2000).	Interest-free loan for construction of headquarters premises (valued at US$ 499.2 million in year 2000). UNDC-1 and UNDC-2.		Gift from Ford Foundation for the construction of the library (valued at US$ 37.3 million in 2000).
	UNDP[47]				5 – 6 premises rented from UNDC at close to market rate.		
	UNFPA[48]						Private rental at close to market rate.
	UNICEF[49]				UNDC3.		Rental at close to market rate. In 2026 UNICEF will acquire premises for US$ 1.00.

[43] Response to JIU questionnaire and additional written response.
[44] Headquarters Building Refurbishment Revised proposals: Note by the United Kingdom, International Maritime Organization, 20 June 2005 (C94/WP.1) and interview.
[45] Capital master plan: report of the Secretary-General (A/55/117 of 28 June 2000) and Capital master plan: business analysis on the possibility of constructing a new permanent building on the North Lawn: report of the Secretary-General (A/60/874 of 5 June 2006).
[46] The United Nations Development Corporation, a public benefit corporation of the State of New York, specifically established to facilitate more favourable rental rates for the United Nations organizations in New York (from written response of United Nations Headquarters).
[47] Results of interview.
[48] Ibid.
[49] Ibid.

Host	Organization	Land			Premises		
		Host	Organization	Private	Host	Organization	Private
Occupied Palestinian Territory	United Nations (UNRWA)[36]	The Palestinian Authority provided land in Gaza.				Premises constructed by UNRWA.	

[36] Response to JIU questionnaire and additional written response.

Annex II

FACILITIES PROVIDED FOR THE MAINTENANCE AND REFURBISHMENT/ RENOVATION OF HEADQUARTERS PREMISES OF UNITED NATIONS SYSTEM ORGANIZATIONS

Host Country	Organization	Maintenance			Refurbishment/renovation/major repairs		
		Host country	Organization	Private	Host country	Organization	Private
Austria	CTBTO[50]				Major repairs and replacements shared 50 per cent by host country and 50 per cent by VBOs (IAEA, UN (UNOV), UNIDO, CTBTO). All other refurbishments and alterations to be financed solely by VBOs		
	IAEA[52]				(See CTBTO.)		
	UNIDO[53]				(See CTBTO.)		
	United Nations (UNOV)[54]				(See CTBTO.)		
Canada	ICAO[55]	Canada and ICAO share the cost of operations and maintenance at a 75 per cent to 25 per cent ratio respectively (including costs related to security). The premises are managed by Public Works and Government Services Canada (PWGSC).					
	Secretariat Convention on Biological Diversity[56]	Host country provides lump-sum subsidy.			Host country provides lump-sum subsidy.		

[51] Agreement regarding the seat of the Commission, op. cit. at note 12.

[52] Agreement between the International Atomic Energy Agency, the United Nations and the Republic of Austria regarding the establishment and administration of a common fund for financing major repairs and replacements at their Headquarters Seats at the Vienna International Centre (INFCIRC/15/Rev.1/Add.1), which entered into force on 1 January 1981.

[53] Agreement between the Republic of Austria and the United Nations Industrial Development Organization regarding the headquarters of the United Nations Industrial Development Organization (29 November 1995).

[54] Results of interview.

[55] Response to JIU questionnaire and additional written response.

[56] Response to JIU questionnaire.

Host Country	Organization	Maintenance			Refurbishment/renovation/major repairs		
		Host country	Organization	Private	Host country	Organization	Private
Chile	United Nations (ECLAC)[57]		Host country does not participate in maintaining premises.			Host country does not participate in maintaining premises.	
Ethiopia	United Nations (ECA)[58]		All costs related to major maintenance, repairs or new construction are borne by the United Nations.			All costs related to major maintenance, repairs or new construction are borne by the United Nations.	
France	UNESCO[59]		The organization covers maintenance costs.		Provided US$ 4 million (phase I). Guarantees and pays interest on 80 million euro loan (phase II).		
Germany	UNDP (UNV)[60]	Cost-sharing arrangement for repairs and maintenance.			Major repairs costing between 500 and 50,000 euros. Premises newly refurbished by host country.		
	Secretariat Framework Convention on Climate Change[61]	(See UNDP (UNV).)			(See UNDP (UNV).)		
	Secretariat Convention to Combat Desertification[62]	(See UNDP (UNV).)			(See UNDP (UNV).)		
Italy	FAO[63]		Responsible for upkeep.		Major repairs and refurbishments.		
	WFP[64]			Landlord responsible for repairs and maintenance.	Host country. (Cost of refurbishment to be reimbursed by the host country in 2003-2005 was 1,990,111 euros.)		

[57] Op. cit. at note 18.
[58] Response to JIU questionnaire.
[59] Ibid.
[60] See the Agreement between the United Nations and the Government of the Federal Republic of Germany concerning the Occupancy and Use of the United Nations Premises in Bonn (concluded on 13 February 1996) and response to JIU questionnaire.
[61] Ibid.
[62] Ibid.
[63] Response to JIU questionnaire.
[64] Ibid.

Host Country	Organization	Maintenance			Renovation /refurbishment/major repairs		
		Host country	Organization	Private	Host country	Organization	Private
Jordan	United Nations (UNRWA)[65]		The organization covers maintenance costs.			The organization covers maintenance costs.	
Kenya	UNEP[66]		The host country does not contribute towards the maintenance of the premises.				
	UN-Habitat[67]		(See UNEP.)				
	United Nations (UNON)[68]		(See UNEP.)				
Lebanon	United Nations (ESCWA)[69]	Major maintenance.			Major repairs and replacements.		
Spain	UNWTO[70] (World Tourism)		UNWTO pays for minor maintenance and upkeep (informal agreement with host country).		Host country pays for major repairs (informal agreement).		

[65] Response to JIU questionnaire and additional written response.
[66] Op. cit. at note 18 and results of interview.
[67] Ibid.
[68] Ibid.
[69] Response to JIU questionnaire.
[70] Ibid.

Host Country	Organization	Maintenance			Renovation /refurbishment/major repairs		
		Host country	Organization	Private	Host country	Organization	Private
Switzerland	ILO[71]					Building accommodation fund for major renovations.	
	ITU[72]					ITU responsible for renovations and alterations.	
	United Nations (OHCHR)[73]	Responsible for maintenance.					
	UNHCR[74]		Funds reserve for major maintenance.				
	United Nations (UNOG)[75]		Responsible for maintenance.				Some rooms refurbished by Member States.
	UPU[76]						
	WHO[77]		Responsible for maintenance.			Real estate fund.	
	WIPO[78]		Responsible for maintenance.			1988 renovations: FIPOI interest-free loan - other renovations funded by WIPO.	
	WMO[79]		Fund established for maintenance.				

[71] Results of interview and op. cit. at note 18.
[72] Results of interview and additional written response.
[73] Op. cit. at note 18 and results of interview.
[74] Results of interview and op. cit. at note 18.
[75] Ibid.
[76] Results of interview.
[77] Results of interview and op. cit. at note 18.
[78] Ibid.
[79] Ibid.

Host Country	Organization	Maintenance			Renovation /refurbishment/major repairs		
		Host country	Organization	Private	Host country	Organization	Private
Thailand	United Nations (ESCAP)[80]					United Nations provides for maintenance of premises.	
United Kingdom	IMO[81]	80 per cent by host country.	20 per cent by IMO.		Original cost-sharing arrangement 80 per cent by host country, 20 per cent by IMO. Current refurbishment arrangement 90 per cent by host country 10 per cent by IMO.		
United States	United Nations Headquarters[82]		Organization covers maintenance costs.			Organization covers refurbishment costs.	
	UNDP[83]					Cost of any major repairs/refurbishment is adequately covered from resources available to UNDP on a regular basis.	
	UNFPA[84]		Normal repairs.				
	UNICEF[85]		Organization covers maintenance costs.			Organization covers refurbishment costs.	

Host	Organization	Maintenance			Renovation /refurbishment/major repairs		
		Host	Organization	Private	Host	Organization	Private
Occupied Palestinian Territory	United Nations (UNRWA)[86]		The organization covers maintenance costs.			The organization covers refurbishment costs.	

[80] Response to JIU questionnaire and additional written response.
[81] Results of interview, and "Headquarters Building Refurbishment Revised proposals: Note by the United Kingdom", International Maritime Organization, 20 June 2005 (C94/WP.1).
[82] Capital master plan: report of the Secretary-General (A/55/117 of 28 June 2000).
[83] Results of interview and written response from UNDP.
[84] Results of interview.
[85] Results of interview and written response from UNICEF.
[86] Response to JIU questionnaire and additional written response.